THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.24913 OF 2005

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Dated: 30-11-2005

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Between

Ismail, S/o. Moinuddin, Occ: FPS Dealer, R/o. Cheelapally (V), Jharasangam (M), Medak District.

...PETITIONER

AND

The Joint Collector, Sangareddy, Medak District and others.

...RESPONDENTS

ORDER:

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Petitioner seeks a Writ of Mandamus to declare the action of the first respondent in passing the impugned order dated 04.11.2005 rejecting the stay application in CSA/35/A/2005 as illegal and arbitrary.

Heard the learned counsel for the petitioner, learned Government Pleader for respondents 1 and 2 and Mr. H. Venugopal, appearing for the third respondent.

Petitioner is a fair price shop dealer of Cheelapally village, Jharasangam Mandal, Medak District. His authorization is valid up to 31.03.2006. He has been carrying out the distribution of essential commodities without any complaint whatsoever either from the cardholders or from the authorities. While so, the authorization of the petitioner was suspended pending

enquiry vide proceedings No.B2/432/2005 dated 16.03.2005 of the Revenue Divisional Officer-second respondent. Aggrieved by the same the petitioner filed an appeal before the Joint Collector-first respondent. The first respondent granted stay of operation of the order of the second respondent on 30.03.2005. Without disposing the appeal the stay was vacated on 20.04.2005. Aggrieved by the same the petitioner filed W.P.No.10141 of 2005. This Court while disposing the said writ petition on 27.06.2005 directed the first respondent to dispose the appeal itself and till then granted stay of operation of the order of suspension made pending enquiry and the petitioner was permitted to continue as dealer. Thereafter, a memo dated 01.09.2005 was issued to the petitioner directing him to appear before the second respondent on 05.09.2005. It is stated that the petitioner appeared before the second respondent but no show cause notice was issued, no any explanation was demanded and no enquiry was conducted.

The authorization of the petitioner was cancelled vide proceedings of the second respondent dated 17.10.2005 stating that petitioner has committed certain irregularities and indulged in clandestine business depriving the rights of the cardholders and causing inconvenience to them.

Admittedly, no show cause notice has been issued in the instant case except a memo dated 01.09.2005 directing the petitioner to appear before the second respondent. It appears that the petitioner was examined without framing charges and without issuing show cause notice. Against the said order of cancellation dated 17.10.2005 petitioner filed an appeal before the Collector, Civil Supplies, Medak at Sangareddy. While admitting the appeal the Collector rejected the stay application by impugned notice dated 04.11.2005. It is also stated that the third respondent filed a caveat petition before the Collector.

As the appeal is pending before the first respondent, I am of the opinion that though the order passed by the second respondent dated 17.10.2005 is illegal, unsustainable and against the principles of natural justice as no show cause notice has been issued calling upon the explanation of the petitioner without framing charges, the first respondent is directed to dispose of the appeal itself in accordance with law as expeditiously as possible after giving reasonable opportunity to the petitioner as well as the respondents. Till then the impugned notice dated 04.11.2005 of the first respondent rejecting the stay petition is set aside and there shall be stay of the operation of the order of the second respondent dated 17.10.2005 and the petitioner shall be permitted to continue to distribute the essential

commodities.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

November 30, 2005

DSK